



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[MB Docket No. 11-43; FCC 23-20; FR ID 133388]

#### **Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission proposes to expand its support for individuals who are blind or visually impaired and ensure they have nationwide access to video programming by expanding its audio description requirements to additional market areas. Specifically, the Commission proposes to phase in an additional 10 designated market areas each year until audio description is available in all such market areas.

**DATES:** Comments are due on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]; reply comments are due on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by MB Docket No. 11-43, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, public notice, DA 20-304 (March 19, 2020).

*People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Diana Sokolow, [Diana.Sokolow@fcc.gov](mailto:Diana.Sokolow@fcc.gov), of the Policy Division, Media Bureau, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking, FCC 23-20, adopted on March 16, 2023 and released on March 17, 2023. The full text of this document is available on the FCC's website at <https://docs.fcc.gov/public/attachments/FCC-23-20A1.pdf> or electronically in ASCII, Microsoft Word, and/or Adobe Acrobat via ECFS.

## **Synopsis**

1. In the Further Notice of Proposed Rulemaking (FNPRM), the Commission proposes to expand its support for individuals who are blind or visually impaired and ensure they have nationwide access to video programming by expanding its audio description requirements to additional market areas. Consistent with the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), we propose to phase in an additional 10 designated market areas (DMAs) each year until audio description is available in all such market areas. The

proposed expansion would help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming.

2. Audio description makes video programming more accessible to individuals who are blind or visually impaired through “[t]he insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.”<sup>1</sup> The Commission’s audio description rules currently require certain television broadcast stations and multichannel video programming distributors (MVPDs) to provide audio description for a portion of the video programming they distribute to consumers. Audio description is required in DMAs 1 through 60, pursuant to an order adopted by the Commission in 2011. In 2020, the Commission expanded the audio description requirements to DMAs 61 through 100 on a phased schedule that will be complete on January 1, 2024. In that Order, the Commission also committed to determining in 2023 whether to continue expanding the audio description requirements to an additional 10 DMAs per year. There are currently a total of 210 DMAs. Through this FNPRM, we seek comment on our proposal to expand the audio description requirements using a phased schedule until all DMAs are covered by the audio description rules. In particular, we seek comment on whether the costs associated with expansion beyond DMA 100 are reasonable and whether the consumer need for expansion outweighs such costs, including whether there are any unique circumstances applicable to these smaller markets from DMA 101 through DMA 210 that the Commission should consider. We also seek comment on what rules, procedures, or schedule adjustment the Commission could consider to balance or minimize such costs against the consumer benefits of providing nationwide audio description.

3. As required by section 202 of the CVAA, the Commission adopted rules in 2011 requiring certain television broadcast stations and MVPDs to provide audio description for a portion of the video programming that they offer to consumers on television. The current audio description rules require commercial television broadcast stations that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC) and are

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<sup>1</sup> See 47 CFR 79.3(a)(3). Audio description is typically provided through the use of a secondary audio stream, which allows the consumer to choose whether to hear the narration by switching from the main program audio to the secondary audio.

located in the top television markets to provide 50 hours of audio-described programming per calendar quarter during prime time or on children’s programming, as well as an additional 37.5 hours of audio-described programming per calendar quarter at any time between 6 a.m. and 11:59 p.m.<sup>2</sup>

4. The CVAA directed the Commission to submit two reports to Congress related to audio description, and the second such report is relevant to this FNPRM. In the Second Report, the CVAA required the Commission to assess, among other topics, “the potential costs to program owners, providers, and distributors in [DMAs] outside of the top 60 of creating [audio-described] programming” and “the need for additional described programming in [DMAs] outside the top 60.”<sup>3</sup> The Bureau submitted the Second Report to Congress in October 2019, describing the consumer desire for application of the audio description rules outside the top 60 DMAs but stating that commenters did not offer “detailed or conclusive information” as to the costs of such an expansion or a station’s ability to bear those costs. It thus deferred issuing a determination regarding whether any costs associated with the expansion would be reasonable, explaining that, “[s]hould the Commission seek to expand the [audio] description requirements to DMAs outside the top 60, it will need to utilize the information contained in this Second Report, and any further information available to it at the time, to determine that ‘the costs of implementing the [audio] description regulations to program owners, providers, and distributors in those additional markets are reasonable.’”<sup>4</sup>

5. The CVAA provides the Commission with authority “to phase in the [audio] description regulations for up to an additional 10 [DMAs] each year,” “based upon the findings, conclusions, and recommendations contained in the [Second Report],” “(I) if the costs of implementing the [audio] description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and (II) except that

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<sup>2</sup> 47 CFR 79.3(b)(1). The rules also require “[t]elevision broadcast stations that are affiliated or otherwise associated with any television network [to] pass through audio description when the network provides audio description and the broadcast station has the technical capability necessary to pass through the audio description, unless it is using the technology used to provide audio description for another purpose related to the programming that would conflict with providing the audio description.” *Id.* 79.3(b)(3).

<sup>3</sup> 47 U.S.C. 613(f)(4)(C)(iii)(IV), (VII).

<sup>4</sup> Second Report at paragraph 28 (quoting 47 U.S.C. 613(f)(4)(C)(iv)(I)).

the Commission may grant waivers to entities in specific [DMAs] where it deems appropriate.”<sup>5</sup> Exercising this authority, the Commission adopted a phased expansion of the audio description rules, finding that the costs of the expansion to DMAs 61 through 100 are reasonable for program owners, providers, and distributors. The audio description requirements extended to DMAs 61 through 70 on January 1, 2021, to DMAs 71 through 80 on January 1, 2022, and to DMAs 81 through 90 on January 1, 2023. The requirements will extend to DMAs 91 through 100 on January 1, 2024. Thus far, the timetable for the phased expansion has been successful, with no requests for relief under either the rule governing exemptions due to economic burden or the more general waiver rule.

6. The *2020 Audio Description Order* also indicated that the Commission would consider in 2023 whether to continue expanding the audio description requirements to an additional 10 DMAs per year, after assessing the reasonableness of the associated costs. The Commission explained that deferring a determination on the application of the audio description rules beyond DMA 100 “will best enable us to consider the unique circumstances that may be applicable” to the smallest markets, and provides “the additional benefit of . . . any additional information gleaned from [the] practical experience” of expansion beyond DMA 60.

7. Consistent with the CVAA, we propose to continue phasing in the audio description requirements for an additional 10 DMAs each year until all 210 DMAs are covered, and we invite comment on this proposal. Specifically, we invite comment on whether the costs of implementing the audio description regulations in markets 101 through 210 are reasonable.

8. We seek comment on the benefits of expanding the audio description requirements to DMAs 101 through 210. The Second Report indicated that consumers seek expansion of the audio description requirements to additional DMAs, and we believe that even in the smallest DMAs, our proposal will provide significant benefits to consumers who are blind or visually impaired. As the Commission has previously stated, “[i]t is indisputable that [audio] description enhances the accessibility of video programming to consumers who are blind or visually impaired.” In addition to the benefits for consumers who are blind or visually impaired,

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<sup>5</sup> 47 U.S.C. 613(f)(4)(C)(iv).

when the Commission expanded the audio description requirements to DMAs 61 through 100, it found that “consumers who are not blind or visually impaired and live in those markets also would benefit from the expansion, such as consumers with other sensory or cognitive impairments, individuals learning the language, and those who listen to video programming while multitasking.” We invite comment on the benefits of the proposed expansion to consumers in DMAs 101 through 210. Commenters should provide specific data on the amount of audio-described programming currently available in DMAs 101 through 210, including comparing that data to the amount that would be available if the Commission were to expand the audio description requirements to such DMAs. We also invite commenters to discuss any other benefits of the proposed expansion.

9. We also seek comment on the costs of expanding the audio description requirements to DMAs 101 through 210. Specifically, the CVAA permits the Commission to extend the audio description requirements to additional DMAs “if the costs of implementing the [audio] description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission.” When the Commission extended the audio description requirements to DMAs 61 through 100, it concluded that the costs of compliance were reasonable. We thus ask commenters to discuss whether the Commission’s analysis in 2020 for DMAs 61-100 similarly applies today to DMAs 101 through 210. Specifically, have the costs of adding audio description to television programming, which held steady between 2017 and 2020, remained steady today? We encourage commenters to provide figures demonstrating the estimated costs of complying with the audio description regulations for program owners, providers, and distributors in DMAs 101 through 210.

10. We anticipate that any cost caused by application of the audio description requirements to additional DMAs will be minimized because covered broadcasters are already required to have the equipment and infrastructure needed to deliver a secondary audio stream for purposes of the emergency information requirements, without exception for technical capability or market size.<sup>6</sup> In addition, we anticipate that any such cost will be further minimized because

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<sup>6</sup> The Commission’s audio description rules define a video programming provider to include any video programming distributor, and the rules define a video programming distributor to include any Commission-

network affiliates in all DMAs are already required to pass through the audio description they receive via a network feed, provided the station has the necessary technical capability and is not using the technology used to provide audio description for another purpose related to the programming that would conflict with providing the audio description. We seek comment on this analysis. How many broadcasters in DMAs 101 through 210 currently lack the equipment or infrastructure needed to deliver a secondary audio stream, and would the costs of implementing such equipment or infrastructure be minimal? To the extent any broadcasters that currently lack the necessary equipment or infrastructure believe that the implementation costs would be significant, could this best be addressed through the existing process for exemptions due to economic burden?

11. As an alternative to expanding the audio description requirements to all DMAs 101 through 210, should the Commission consider phasing in a smaller subset of DMAs? If so, what would be the appropriate cutoff? Is there a certain DMA beyond which expansion of the audio description requirements would create unreasonable costs? Would this limitation mitigate the cost of expanding the audio description requirements? Should the Commission consider expanding to a smaller number of DMAs, such as five DMAs per year, in recognition of the fact that the markets are smaller? If so, why and what factors would support such a modification of the phased schedule? Would such modifications of the schedule mitigate the potential costs or burden of our proposal?

12. We invite comment on any other issues relevant to our analysis of the costs of creating audio-described programming in DMAs 101 through 210. For example, when the Commission expanded the audio description requirements to DMAs 61 through 100, it “sought comment on several additional issues related to analyzing the costs, including information on the differing costs faced by network affiliates that receive programming via a network feed as compared to other network affiliates; whether there are any network affiliates in any DMA that do not receive programming via a network feed; whether network affiliated stations in markets 61

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licensed television broadcast station. 47 CFR 79.3(a)(2), (5). Accordingly, television broadcasters clearly fall within the statutory reference to program providers and distributors. 47 U.S.C. 613(f)(4)(C)(iv).

through 100 would be able to satisfy the audio description requirements entirely by using the programming they receive via a network feed; and whether there are differing costs incurred by stations owned by large station group owners as compared to smaller station group owners or single stations.” However, commenters did not address these issues in the record at that time. To the extent any such issues are relevant to our proposed extension of the audio description requirements to DMAs 101 through 210, we invite comment.

13. If the Commission determines that the costs of implementing the audio description regulations to program owners, providers, and distributors in DMAs 101 through 210 are “reasonable,” we invite comment on the compliance deadline for the expansion. In 2020, the Commission adopted an audio description phase-in that will conclude with DMAs 91 through 100 on January 1, 2024. Accordingly we propose to continue the phase-in with DMAs 101 through 110 on January 1, 2025, extending to 10 additional DMAs per year until the phase-in concludes with DMAs 201 through 210 on January 1, 2035, consistent with the expansion allowable under the CVAA. We invite comment on whether this approach, which provides the smallest DMAs with the longest timeframe for compliance, provides entities with sufficient time for compliance.

14. We seek comment on whether any extension of the rules to additional DMAs should be based on an updated Nielsen determination, consistent with Commission precedent and the CVAA, or whether we should consider other metrics. When the Commission expanded the application of the rules from the top 25 to the top 60 markets beginning on July 1, 2015, it did so based on updated Nielsen DMA ratings as of January 1, 2015. Similarly, when the Commission again expanded the application of the rules to the top 100 markets beginning January 1, 2021, it did so based on updated Nielsen DMA ratings as of January 1, 2020. We propose to now update our audio description rules to base the phased expansion as well as the current requirements on updated Nielsen DMA ratings as of January 1, 2023, and we invite comment on this proposal. We note that television broadcast stations in the top 90 markets are subject to the audio description requirements today. If we utilize updated Nielsen figures, what should be the compliance deadline for stations in a DMA that was not in the top 90 markets as of January 1, 2020, but is within the top 90 markets as of January 1, 2023? In the *2020 Audio Description*



*Order*, we provided that stations in a DMA that was not in the top 60 markets as of January 1, 2015, but was within the top 60 markets as of January 1, 2020, must come into compliance with the audio description rules by the compliance deadline for DMAs 61 through 70. Similarly, should we require here that any such station come into compliance with the audio description rules by the next phased compliance deadline, which will be the January 1, 2024 deadline applicable to DMAs 91 through 100? Should that next phased compliance deadline be based on the updated Nielsen DMA rankings, in addition to any subsequent compliance deadlines that we adopt as a result of this FNPRM? As in 2020, we expect that “using updated Nielsen data will facilitate the efficient roll out of audio description obligations to more television households,” and we invite comment on this analysis.

15. If the Commission expands the audio description rules to additional DMAs, we propose that § 79.3(d) of our rules will govern any petitions for exemption due to economic burden. The audio description rules permit covered entities to petition the Commission for a full or partial exemption from the requirements upon a showing that the requirements are economically burdensome.<sup>7</sup> Although we propose that § 79.3(d) will continue to apply to instances in which an entity seeks to demonstrate that the extension to additional DMAs is economically burdensome, we recognize that the CVAA also provides that if an expansion of the audio description rules to additional DMAs occurs, “the Commission may grant waivers to entities in specific [DMAs] where it deems appropriate.” Section 1.3 of the Commission’s rules governs waivers of the Commission’s rules generally. Accordingly, to the extent a broadcaster subject to the extension believes it needs relief due to some reason other than economic burden,

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<sup>7</sup> See 47 CFR 79.3(d). The term “economically burdensome” means imposing significant difficulty or expense, and the Commission considers the following factors in determining whether the requirements for audio description would be economically burdensome: (i) the nature and cost of providing audio description of the programming; (ii) the impact on the operation of the video programming provider; (iii) the financial resources of the video programming provider; and (iv) the type of operations of the video programming provider. *Id.* 79.3(d)(2)(i) through (iv). In addition, the Commission considers any other factors the petitioner deems relevant to the determination and any available alternative that might constitute a reasonable substitute for the audio description requirements, and it evaluates economic burden with regard to the individual outlet. *Id.* 79.3(d)(3). In the first audio description report that the Commission submitted to Congress in accordance with the CVAA, the Media Bureau stated its belief “that the ability to seek an exemption on the basis of economic burden should alleviate the potential for undue cost burdens on covered entities, particularly when the rules go into effect for broadcast stations in television markets ranked 26 through 60 in 2015.”

we propose that it may seek a waiver under § 1.3. We tentatively conclude that §§ 79.3(d) and 1.3 provide a sufficient mechanism for entities seeking relief from any expansion of the audio description rules to additional DMAs, and we invite comment on this conclusion.<sup>8</sup>

16. We seek information on whether there is additional information garnered from the practical experience of expanding to DMAs 61 through 100 that may inform our decision on whether to expand our requirements to DMAs 101 through 210. We also seek comment on whether there are any other issues with respect to our proposal to extend the audio description rules to additional DMAs of which we should be aware.

17. *Digital Equity and Inclusion.* Finally, the Commission, as part of its continuing effort to advance digital equity for all,<sup>9</sup> including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations<sup>10</sup> and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission’s relevant legal authority.

18. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written

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<sup>8</sup> We note additionally that we have not received any requests for relief under either § 79.3(d) or § 1.3 resulting from the expansion to DMAs 61 through 100.

<sup>9</sup> Section 1 of the Communications Act of 1934 as amended provides that the FCC “regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.” 47 U.S.C. 151.

<sup>10</sup> The term “equity” is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021).

public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments indicated on the first page of the FNPRM. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In summary, the FNPRM proposes to expand the Commission's support for individuals who are blind or visually impaired and ensure they have nationwide access to video programming by expanding the Commission's audio description requirements to additional market areas. Consistent with the CVAA, the Commission proposes to phase in an additional 10 DMAs each year until audio description is available in all such market areas. There are currently 210 DMAs. The proposed expansion would help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming. The proposed action is authorized pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, and section 713 of the Communications Act of 1934, as amended, 47 U.S.C. 613. The types of small entities that may be affected by the proposals contained in the FNPRM fall within the following categories: Television Broadcasting, Wired Telecommunications Carriers, Cable and Other Subscription Programming, Cable Companies and Systems (Rate Regulation), Cable System Operators (Telecom Act Standard), and Direct Broadcast Satellite (DBS) Service.

19. The projected reporting, recordkeeping, and other compliance requirements are as follows. The FNPRM proposes phasing in the existing audio description requirements for an additional 10 DMAs each year, beginning with DMAs 101 through 110 on January 1, 2025 and continuing until all 210 DMAs are covered, which will be on January 1, 2035. The substance of the audio description requirements would not change, but rather, this would be an expansion of the DMAs in which broadcast television stations are required to comply with the requirements. In determining the deadline applicable to each DMA, the FNPRM proposes that the Commission should base the extension on an updated Nielsen determination. Finally, if the Commission expands the audio description requirements to additional DMAs, the FNPRM proposes that § 79.3(d) of the Commission's rules will govern any petitions for exemption due to economic

burden, and the FNPRM also states that § 1.3 of the Commission's rules governs waivers of the Commission's rules generally. There is no overlap with other regulations or laws.

20. The FNPRM focuses on engaging in a cost-benefit analysis to determine the effects the expansion would have. It invites comment on whether the costs of implementing the audio description regulations in markets 101 through 210 are reasonable. The FNPRM explains that we anticipate any cost would be minimized because covered broadcasters are already required to have the equipment and infrastructure needed to deliver a secondary audio stream for purposes of the emergency information requirements, without exception for technical capability or market size. In addition, it states that we anticipate that any cost would be further minimized because network affiliates in all DMAs are already required to pass through the audio description they receive via a network feed, provided the station has the necessary technical capability and is not using the technology used to provide audio description for another purpose related to the programming that would conflict with providing the audio description. The FNPRM states that even in the smallest DMAs, the Commission believes that the proposal will provide significant benefits to consumers who are blind or visually impaired. Comments on the FNPRM will help us evaluate the benefits and costs of the proposed expansion and whether the costs would be reasonable. The Commission has attempted to minimize the impact of the rules on small entities, and it invites comment on alternative approaches.

21. *Paperwork Reduction Act.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.<sup>11</sup> In addition, therefore, it does not contain any proposed new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

22. *Ex Parte Rules—Permit-But-Disclose.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>12</sup> Persons

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<sup>11</sup> If the Commission adopts its proposal to extend the audio description requirements to additional DMAs, it will file a non-substantive modification to the information collection that contains § 79.3 (OMB 3060-1148) to clarify that the audio description requirements have been extended to additional DMAs.

<sup>12</sup> 47 CFR 1.1200 *et seq.*

making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

23. *Filing Requirements—Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

24. The proposed action is authorized pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111-260, 124 Stat. 2751, and the authority contained in section 713 of the Communications Act of 1934, as amended, 47 U.S.C. 613.

**List of Subjects in 47 CFR Part 79**

Communications equipment, Television broadcasters

FEDERAL COMMUNICATIONS COMMISSION.

**Marlene Dortch,**

*Secretary,*

*Office of the Secretary.*

## Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 79 as follows:

### **PART 79 – ACCESSIBILITY OF VIDEO PROGRAMMING**

1. The authority citation for part 79 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

2. Amend § 79.3 by revising paragraph (b)(1) to read as follows:

#### **§ 79.3 Audio description of video programming.**

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(b) \* \* \*

(1) Commercial television broadcast stations that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC), and that are licensed to a community located in the top 90 DMAs, as determined by The Nielsen Company as of January 1, 2023, must provide 50 hours of audio description per calendar quarter, either during prime time or on children's programming, and 37.5 additional hours of audio description per calendar quarter between 6 a.m. and 11:59 p.m. local time, on each programming stream on which they carry one of the top four commercial television broadcast networks. If a previously unaffiliated station in one of these markets becomes affiliated with one of these networks, it must begin compliance with these requirements no later than three months after the affiliation agreement is finalized. On January 1, 2024, and on January 1 each year thereafter until January 1, 2035, the requirements of this paragraph (b)(1) shall extend to the next 10 largest DMAs as determined by The Nielsen Company as of January 1, 2023;

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[FR Doc. 2023-06527 Filed: 3/28/2023 8:45 am; Publication Date: 3/29/2023]